

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.17 OF 1999

Dinkar Genu Jejure. ...Petitioner.
[Orig.accused No.1]
Versus
The State of Maharashtra. ...Respondent.

Mr.Rajesh Ketkar, Adv. for the Petitioner.
Mrs.A.S.Pai, APP, for the State.

CORAM : SMT.V.K.TAHILRAMANI, J.

DATE : 11th July, 2007.

DATE OF RESERVING THE ORDER : 20th June, 2007.
DATE OF PRONOUNCING THE ORDER: 11th July, 2007.

ORAL ORDER :

1. By judgment and order dated 19.6.1998 the learned 5th Additional District and Sessions Judge, Nashik convicted the petitioner in Sessions Case No.103 of 1997. By the said judgment and order the petitioner came to be convicted under Section 498-A and sentenced to suffer R.I. for a period of two years and fine of Rs.1000/- in default S.I. for six months. However, the learned Sessions Judge acquitted the petitioner

other accused Nos.2 to 6 under Section 306 of IPC. The other accused also came to be acquitted under Section 498-A of IPC. Being aggrieved by his conviction and sentence imposed upon him, the petitioner-orig. accused No.1 preferred Criminal Appeal No.42 of 1998. By judgment and order dated 2.1.1999 the said Appeal came to be dismissed by the learned Jt.District Judge, Nashik. Hence this Revision.

2. I have heard Mr.Ketkar the learned Advocate for the petitioner-orig. accused No.1 and Mrs.Pai the learned APP for the State, at length. I have also perused the judgments of both the Courts below and the record pertaining to the present case.

3. From the evidence of complainant PW-1 Kedu Sonawane, it is seen that deceased Vithabai was married to the petitioner on 3.5.1995 as per Hindu rites. Vithabai was the daughter of the complainant PW-1 Kedu Sonawane. After the marriage, Vithabai went to reside with the

petitioner at Dongaon. Soon thereafter the accused persons started complaining that less amount is given in dowry and the complainant could not search for a job for the petitioner, hence Vithabai was asked to get Rs.50,000/- from her parents. As the demand was not met the accused used to keep Vithabai without food. The accused also used to beat Vithabai On account of this, the complainant kept his daughter in his house for seven months. Thereafter, the father-in-law of Vithabai and the police patil of village Dongaon came along with some others and convinced the complainant that he should send his daughter back to village Dongaon. Hence, the complainant sent his daughter Vithabai to Dongaon. However, even thereafter the harassment to Vithabai continued and all the relations of Dinkar i.e. petitioner were instigating the petitioner against Vithabai due to which the petitioner used to beat Vithabai. Around 9.1.1997 the complainant received telephonic message that his daughter was missing. Hence, he lodged a missing report with the police and also searched for his daughter. On the next

day, he found body of his daughter in the well. Thereafter PW-1 Kedu Sonawane lodged complaint against the accused persons.

4. The learned Sessions Judge has observed that not only PW-1 Kedu Sonawane who is the father of Vithabai has deposed on the aspect of cruelty to Vithabai by the petitioner, but, in addition thereto PW-2 Ramesh Sonawane who is the brother of Vithabai, PW-3 Mangala Sonawane who is the aunt of Vithabai, and PW-4 Pandurang Sonawane who is the uncle of Vithabai have deposed about ill-treatment and cruelty to Vithabai at the hands of the petitioner.

5. The learned Sessions Judge has observed that PW-2 Ramesh Sonawane has stated that on 31.3.1996 he had gone to village Dongaon along with PW-3 Mangala Sonawane for marriage ceremony of the relative of the accused. At that time his sister Vithabai told him about the harassment to her at the hands of the accused. PW-2 Ramesh has stated that Vithabai was crying at that time.

PW-2 Ramesh has stated that thereafter Dinkar (petitioner) asked Vithabai as to why she was conveying all these instances to them and he started beating Vithabai with kick blows and fist blows in the presence of this witness. PW-2 Ramesh intervened in the quarrel and took Vithabai to village Dugaon and Vithabai then stayed at village Dugaon for about 7 months. It is further observed that PW-3 Mangala Sonawane has corroborated PW-2 Ramesh Sonawane on this aspect. She has stated that when she had gone to village Dongaon to attend the marriage ceremony of the relative of the accused persons. Vithabai told her that the accused was harassing her to bring Rs.50,000/- from her parents. At that time Vithabai started crying. Dinkar (petitioner) saw the incident and asked her why Vithabai was making complaints against them and started beating Vithabai with fist blows and kick blows, in presence of this witness. She stated that she and PW-2 Ramesh tried to intervene in the quarrel. Vithabai was taken to Dugaon and Vithabai stayed at the house of her father at Dugaon for about 7

months. Both PW-2 Ramesh and PW-3 Mangala have stated that thereafter Vithabai was sent to the house of the accused. However, within 15 days Vithabai was again harassed by the accused. Vithabai was not provided food. Thereafter they received message that Vithabai was missing and her dead body was found in the well.

6. Both the Courts below have considered the cumulative effect of the evidence. The allegations against the petitioner are that he harassed his wife on account of demand of payment of Rs.50,000/- not being met. All the witnesses have stated about Vithabai informing them about ill-treatment meted out to her by the accused. Moreover, PW-2 Ramesh and PW-3 Mangala have stated that when they had gone to village Dongaon, Vithabai told them about the harassment to her by the accused. The petitioner saw this and asked Vithabai why she was informing all these facts to PW-2 Ramesh and PW-3 Mangala and then in the presence of PW-2 Ramesh and PW-3 Mangala the petitioner beat Vithabai with fist blows and kick

blows. Both these witnesses intervened and thereafter they took her to the house of her father where she stayed for about seven months. Thereafter, Vithabai was sent to the house of the accused only after taking promise that she would be treated properly. However, the ill-treatment continued and thereafter Vithabai was found dead in the well. Both the Courts below have considered the evidence and noted that there was demand of Rs.50,000/-. On account of this, Vithabai was being harassed by the petitioner. Moreover, witnesses PW-2 Ramesh and PW-3 Mangala have spoken about beating to Vithabai by the petitioner.

7. In respect of the incident which occurred at village Dongaon wherein the petitioner beat Vithabai by fist blows and kick blows which is stated by PW-2 Ramesh and PW-3 Mangala, Mr.Ketkar the learned Advocate for the petitioner submitted that both these witnesses have deposed falsely about such a incident. He submitted that PW-3 Mangala has stated that she informed the

complainant about this incident which occurred at village Dongaon. However, the complainant does not depose about such a incident. Mr.Ketkar submitted that had Mangala really seen the incident and informed the complainant, the complainant would surely have deposed about this fact. He further submitted that the very fact that the complainant did not depose about any such thing shows that Mangala was falsely deposing about the incident. No doubt the complainant does not depose about this incident. However, it is seen that the complainant was not a witness to the said incident at village Dongaon. The complainant has honestly stated only about those incidents which occurred in his presence and which were seen or heard by him. Thus, just because the complainant has not stated about this incident regarding the petitioner beating Vithabai at village Deogaon in the presence of PW-2 Ramesh and PW-3 Mangala, it does not falsify the prosecution case.

8. Thereafter Mr.Ketkar submitted that there

was no cruelty to Vithabai at the hands of the petitioner. In support of this submission he has placed reliance on a letter Exhibit-A which has been produced through the evidence of PW-1 Kedu Sonawane. The said letter has been sent by the petitioner to the complainant and other persons. I have perused the said letter. On perusal of the said letter, it cannot be said that there was no ill-treatment or cruelty to Vithabai. In my view, this letter does not help the petitioner in any manner.

9. Lastly, Mr.Ketkar submitted that the evidence of Investigating Officer shows that just prior to the incident at about 11:30 a.m. while going to the field Vithabai was in a happy mood. Mr.Ketkar pointed out that there were no injuries on the person of Vithabai. Mr.Ketkar submitted that this shows that Vithabai had accidentally slipped and fallen into the well and hence no case is made out against the petitioner. As far as this aspect is concerned, it is seen that the petitioner has been acquitted under Section 306 of

IPC and he has been convicted only under Section 498-A of IPC. The material on record clearly makes out a case of cruelty, ill-treatment and harassment by the petitioner to Vithabai. PW-2 Ramesh and PW-3 Mangala have specifically stated that in their presence the petitioner had beaten Vithabai with fist blows and kick blows as the petitioner heard Vithabai complaining to these witnesses about the cruelty at the hands of the accused.

10. Both the Courts below have carefully scrutinised the evidence and have rightly come to the conclusion that a case under Section 498-A of IPC is made out against the petitioner. The orders of the Courts below are correct, proper and legal. No interference is called for.

11. Rule stands discharged. The petitioner who is on bail, is granted six weeks time from today to surrender.

(SMT.V.K.TAHILRAMANI, J.)